THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.15392 of 2006
31-07-2006

Between:
Togari Sudarshan Petitioner

And
The Returning Officer, Village Kachapur,Mandal Bhiknoor, District Nizamabad and others
Respondents

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.15392 of 2006

ORDER:

1. Heard the counsel.

2. The main grievance of the petitioner is that on the self same ground during ZPTC election, The Collector and District Magistrate, Nizamabad issued proceedings in H5/2695/2006, where under it was recorded as hereunder:

> "The record file pertaining to nominations of Togari Sudharshan available with CEO(ZP) Nizamabad has been verified. The appellant has filed the above said certificates along with his nomination.
>
> The school bonafied certificate shown in Column No.5 above are the Xerox copies . On further verification of the complaint petition filed by Sri Paithari Sudhakar and others contesting candidates, it is found that the names of twins shown as Ramesh and Venkatesh whereas the appellant has shown the names of his sons as Lakshman and Ramesh. The Returning Officer and the Chief Executive Officer, Zilla Parishad Nizamabad has not verified the names of the twins and rejected the nomination.
>
> Verified the admission registers of both the schools and found that in the school record of Abhyudaya Pathashala Domakonda the date of birth appeared to have been tampered with by changing from1995-1998 and entering words in respect of some cases.
>
> Verified the files bearing No.A4/5666/2002 and A4/5667/2002

pertaining to MRO's Office Bhiknoor in which integrated community, Nativity and Date of birth certificates were issued vide dated 1112.2002 it is found that the Date of Birth Certificates issued by Head Master primary school (BC) Colony, Kachapur in which the date of birth of twins shown as 21.02.1995.

As such the orders of rejection of nomination issued by the Returning Officer and CEO (ZP) Nizamabad is hereby set aside and the nomination filed by the appellant Sri Togari Sudharshan s/o Balaiah resident of Kachapur (v), Bhiknoor (M) for the post of ZPTC, Bhiknoor is accepted."

3. The main grievance of the petitioner is that again on self same ground, despite the order made by the Collector and District Magistrate referred to supra, again the petitioner's nomination is rejected. It is true that such conflicting and inconsistent orders not to be passed. However, the relief prayed for in the writ petition is for a writ of Mandamus declaring the rejection of petitioner's nomination for the post of Sarpanch, village Kachapur, Grampanchayat , Mandal Bhiknoor, district Nizamabad, by the first respondent on 20.7.2006 and in dismissing the appeal on 22.7.2006 by the second respondent is highly arbitrary, bad, illegal and without assigning specific reasons and violation of principles of natural justices and consequently direct the respondents to include the petitioner's name in the final list of valid nominations to the post of Sarpanch and pass such other suitable orders.

4. Several details had been narrated. Prima facie though rejection appears to be bad in the light of the orders in the appeal by the District Collector referred to supra, this may be a ground available to the petitioner in the election petition. Inasmuch as the petitioner is having effective alternative remedy by way of election petition, liberty is given to the petitioner to approach appropriate election tribunal.

5. With the above observation, the writ petition is disposed of. No

order as to costs

31-07-2006

Stp